

REMARKS

Claims 21-32 are pending in the application. Claims 21-32 have been canceled. New claims 33-52 have been added. The amendment is fully supported by the original disclosure. No new matter has been introduced. Reconsideration and allowance of claims 33-52 in view of the following remarks is respectfully requested.

The rejection of claims 21, 22, 24-28, and 30-32 under 35 USC § 103:

Claims 21, 22, 24-28, and 30-32 stand rejected under 35 USC § 103 as being unpatentable in view of the combination of Small et al. (US Patent No. 5,591,255) and Simon (US Patent No. 6,080,415). The claims in question have been canceled and replaced with new claims 33-52.

Applicant's independent claims 33, 36, 43, and 47 all recite the reversible cosmetic composition which includes a photochromic composition and a separate fixed colored dye dispersed within a water-based cosmetically acceptable carrier. The proposed combination of Small and Simon does not render such a limitation obvious. Specifically, both Small and Simon teach separating a fixed dye and a chromic ink into separate layers. As can be seen in Fig. 1 of Small, Small separates a base coat of regular pigmented lacquer from a middle thermochromic layer (2). Likewise, Simon teaches having a first coat which includes a photochromic material and separately applying a separate monochromatic coloring agent in a second coat (see column 1, lines 49-57; column 2, lines 57-59; and column 3, lines 36-40).

Regarding independent claims 33 and 43, these claims additionally recite concentration ranges for the chromic composition, the fixed colored dye, a light stabilizer, a pH range and the inclusion of a bactericide. This particular

combination of components and the concentrations of these components provide a unique reversible cosmetic composition that is not obvious in view of the suggested combination. Specifically, the suggested combination does not teach or suggest combining all these ingredients into a single water-based cosmetically acceptable carrier; nor does the suggested combination teach or suggest the specific concentrations used in claims 33 and 34.

Regarding independent claims 43 and 47, these claims recite disbursing both a thermochromic composition and a photochromic composition in a single water-based cosmetically acceptable carrier. The proposed combination does not teach or suggest such a composition. Small itself teaches that both thermochromic and photochromic encapsulated dyes are well known, however, Small fails to realize the benefits of combining thermochromic and photochromic compositions into a single cosmetically acceptable carrier. Effectively, Small teaches away from the present invention since the reference shows knowledge of both thermochromic and photochromic but fails to teach or suggest combining both together.

Additionally, as argued above, both Small and Simon teach separating fixed dyes from chromic dyes, therefore it can only be assumed that even were they to teach using both thermochromic and photochromic they would also teach separating them into separate coats and not teach combining them into a single carrier.

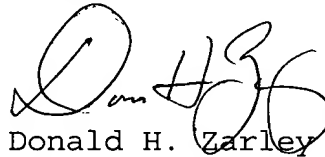
Accordingly, applicant asserts that independent claims 33, 36, 43, and 47 are all not obvious in view of the suggested combination of Small and Simon for at least the reasons set forth above. Additionally, the dependent claims are likewise not obvious due at least to their dependence on independent claims 33, 36, 43, and 47.

CONCLUSION

In view of the above amendments and remarks, applicant believes claims 33-52 are in condition for allowance, and respectfully requests allowance of such claims. If any issues remain that may be expeditiously addressed in a telephone interview, the Examiner is encouraged to telephone the undersigned at 515/558-0200.

Any fees or extensions of time believed to be due in connection with this amendment are enclosed herein; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 50-2098.

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